



# City of Apache Junction, Arizona

## Meeting Minutes Planning and Zoning Commission

Meeting location:

City Council Chambers  
at City Hall  
300 E Superstition Blvd  
Apache Junction, AZ  
85119

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Tuesday, September 12, 2017

7:00 PM

City Council Chambers

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### 1. Call to Order

Chair Nesser called the meeting to order at 7:00pm.

### 2. Pledge of Allegiance

Chair Nesser led the Pledge of Allegiance.

### 3. Roll Call

**Present**                7 -     Chairperson Nesser  
   Commissioner Buzzin  
   Vice Chair Heck  
   Commissioner Howard  
   Commissioner Frank  
   Commissioner Schroeder  
   Commissioner McGraw

**Staff present:**

**City Attorney Joel Stern**

**Development Services Director Larry Kirch**

**Development Services Senior Planner Rudy Esquivias**

**Development Services Assistant Planner Stephanie Bubenheim**

### 4. Consent Agenda

**Yes:**                        7 -     Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Frank, Commissioner Schroeder and Commissioner McGraw

**No:**                         0

Vice Chair Heck made a motion to accept the consent agenda as presented.

[17-367](#)                      Consideration of approval of agenda.

### 5. Call to the Public

None.

## 6. Public Hearings

### 17-382

Presentation, discussion, public hearing, and consideration of case CUP-7-17, a request by School District No. 43 of Pinal County AJ, represented by Michael Bryce of Centerstage Church, requesting approval of a Conditional Use Permit (CUP) for a temporary portable electronic sign at 550 S. Ironwood Drive, north of the northwest corner of S. Ironwood Drive and W. Broadway Avenue.

**Yes:** 6 - Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Frank and Commissioner McGraw

**No:** 1 - Commissioner Schroeder

Assistant Planner Stephanie Bubenheim gave a presentation on case CUP-7-17, a request by School District No. 43 of Pinal County AZ, represented by Michael Bryce of Centerstage Church, requesting approval of a Conditional Use Permit (CUP) for a temporary portable electronic sign at 550 S. Ironwood Drive, north of the northwest corner of S. Ironwood Drive and W. Broadway Avenue.

Chair Nesser asked if Centerstage Church will allow the other businesses in the complex to use the sign they are requesting. Assistant Planner Bubenheim answered, according to the application, the sign is for Centerstage Church only but the applicant may answer differently during his presentation. She added that other leasees at the site may ask for sign permits also. Chair Nesser asked City Attorney Stern if the commission could place a condition on the approval that no other signs are allowed. City Attorney Stern answered that the commission could place a condition on the approval that no other businesses can be advertised on the sign. He added that it's not a monument sign which is a different type of permit and because this is a conditional use permit, the commission can add a reasonable term that says this is the only thing that can be advertised and if other companies want to be advertised the applicant would have to come back to modify the conditional use permit. Chair Nesser asked if the commission can say there can only be one sign and all businesses could be on the same sign. City Attorney Stern said the commission could do that but if you only want the applicant to advertise on the sign, they would have to come back to the commission and modify their conditional use permit.

Commissioner Schroeder asked what type of sign the applicant is proposing. Assistant Planner Bubenheim stated that the application stated it is going to be an electronic sign but does not have exact information. Assistant Planner Bubenheim said we could ask the applicant what type of sign specifically.

Vice Chair Heck asked about the security of the trailer. He would like to know if there is any type of deterrent to prevent it being stolen. Assistant Planner Bubenheim explained about the enclosure of the trailer and stated the applicant can clarify other aspects of theft deterrents.

Commissioner McGraw asked about the length of the electrical conduit and asphalt patching and what will happen when they are no longer using the sign. Chair Nesser asked if the applicant has to put it back to original condition. Commissioner McGraw said that trenching and patching can never be back to original condition. Assistant Planner Bubenheim pointed out from where the electrical will be drawn. Chair Nesser asked if the school district had any issues with the application. Assistant Planner Bubenheim said the school district had to approve the application before it was submitted to the city. Chair Nesser asked if the school district has approved the electrical. Assistant Planner Bubenheim stated the electrical plan was submitted with the plan the school district had to sign.

Commissioner Schroeder asked from where the power will be pulled. Assistant Planner Bubenheim showed on the plans where a power pole was and said she would look if it's coming across the internal road.

Commissioner Buzzin thought the commission couldn't approve a sign where they don't know if it's stable or not or even what the sign is going to look like. Assistant Planner Bubenheim reminded the commission there is a sign permit process and the sign will go through review and there are building code standards that will adhere to this project.

Chair Nesser invited Michael Bryce, pastor of Centerstage Church at 550 S. Ironwood, Apache Junction, to address the commission. Pastor Bryce provided the commission with additional information and background of Centerstage Church and their conditional use permit application. Pastor Bryce explained more about the trailer, its security and the type of sign they are planning on using. He added that if the commission didn't want the other businesses advertising on the sign, the church wouldn't do it.

Commissioner McGraw asked about the other businesses in the building. Pastor Bryce said that it was all leased to Centerstage Church. Commissioner McGraw asked what the other businesses were. Pastor Bryce said there were five other entities that lease from the church. The sizes vary from one room to a wing of the facility. Commissioner McGraw stated he didn't know there were other businesses in the church property and thought it would be a good idea for the other entities to advertise on the church's sign.

Commissioner Schroeder asked about the definition of temporary signs. City Attorney Stern replied that because this is a conditional use permit it can be defined anyway you want.

Commissioner Schroeder asked if there was going to be a protective grate around the sign. Pastor Bryce answered that once the sign is lifted off the ground over six feet there isn't a lot of vandalism according to the sign manufacturer. Pastor Bryce also added that the fence protects the sign as well. Commissioner Schroeder asked from where the power was being pulled. Pastor Bryce answered that the power would be pulled from the corner of the building. Commissioner Schroeder asked why the sign will be on a trailer and not permanent. Pastor Bryce answered that it is his understanding that there would be code issues with two monument signs. Director Kirch added that if the sign were mounted to a post it would be considered a free standing sign.

Chair Ness asked Director Kirch what the commission is doing with this CUP at this meeting, just approving or denying the request. Director Kirch replied that the applicant still would have to submit their plans and get building permits.

Commissioner McGraw asked if having a design would help the commission understand the request better. Pastor Bryce answered that it looks like a television screen and there really isn't anything else to it.

Commissioner McGraw asked about the size of the screen. Pastor Bryce answered 8' x 4'.

Vice Chair Heck added that he doesn't want to complicate the issue and discussed the difference between monument signs and this CUP request. He also asked if the sign will be on 24 hours a day. Pastor Bryce answered that it is their intention for it to run all the time.

Chair Nesser asked that the applicant not use chain link fence. Pastor Bryce stated that it wouldn't be seen and the look of the sign is very important to Centerstage Church.

Having no further questions from the commission, Chair Nesser opened up the public hearing portion of the item.

Having no comments from the public, Chair Nesser closed the public hearing of the item.

Commission McGraw commented he likes that the sign will inform that things are going on there. Vice Chair Heck and Commissioner Howard both agree its a good idea to have a sign there.

Having no further questions or discussion by the commission, Chair Nesser called for a motion.

Vice Chair Heck moved that the Planning and Zoning Commission approve case CUP-7-17, a request by School District No. 43 of Pinal County AZ, represented by Michael Bryce of Centerstage Church, requesting approval of a Conditional Use Permit (CUP) for a temporary portable electronic sign at 550 S. Ironwood Drive, north of the northwest corner of S. Ironwood Drive and W. Broadway Avenue, zoned General Commercial (B-1), subject to the conditions of approval as stated in the Planning and Zoning Commission staff report dated September 12, 2017. Condition #1 to remain as written. Condition #2 to remain as written. Condition #3 to remain as written. Condition #4 to remain as written. Condition #5 to remain as written. Condition #6 to remain as written. Condition #7 to remain as written. Condition #8 to remain as written. Condition #9 to remain as written. Condition #10 to remain as written. Add a condition #11, the temporary portable electronic sign will meet the requirements of the city's signage codes and condition #12 the sign will be used exclusively to promote Centerstage Church. If at any time the applicant wishes to consider adding additional businesses to advertise, the applicant will return to the city and Planning and Zoning Commission with a new Conditional Use Permit. Commissioner Buzzin seconded the motion. The item was approved with a 6 to 1 vote.

#### 17-383

Presentation, discussion, public hearing and consideration of case CUP-5-17, a request by Palo Verde Plaza LLC (owner) and Svaccha LLC (applicant), represented by Jareb Mackin and Jenifer Corey, for approval of a Conditional Use Permit to operate a non-profit medical marijuana dispensary on a B-2 (Old West Commercial) zoned property at 1985 W. Apache Trail, Suite #4. Palo Verde Plaza is located at the southwest corner of W. Apache Trail and S. Palo Verde Drive. (This case was continued from the P&Z meeting of August 22, 2017.)

**Yes:** 6 - Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Frank and Commissioner McGraw

**No:** 1 - Commissioner Schroeder

Senior Planner Esquivias gave a presentation of case CUP-5-17, a request by Palo Verde Plaza LLC (owner) and Svaccha LLC (applicant), represented by Jareb Mackin and Jenifer Corey, for approval of a Conditional Use Permit to operate a non-profit medical marijuana dispensary on a B-2 (Old West Commercial) zoned property at 1985 W. Apache Trail, Suite #4. Palo Verde Plaza is located at the southwest corner of W. Apache Trail and S. Palo Verde Drive. (This case was continued from the P&Z meeting of August 22, 2017.)

Commissioner Schroeder asked for clarification on what happens if there are new owners. Senior Planner Esquivias explained condition #12 and #13 covers new owners of the business.

Director Kirch discussed the difference between an LLC and a non-profit and thought it would be better to include both the LLC and non-profit board/owner/operator changes in the language for the conditions.

City Attorney Stern reminded the commission that in case of a denial, it must be specific as to why the commission is denying the application.

Chair Nesser reminded the commission that should they decide to deny the request, said denial should include reasons that relate to the request not complying with the criteria for either a medical marijuana dispensary and/or a conditional use permit in general. She said it has to be very specific. City Attorney Stern added the codes are also in their book.

Applicant Jenifer Corey addressed the commission regarding the conditional use permit application.

Vice Chair Heck asked the applicant to clarify that Svaccha LLC is not for profit. Ms. Corey explained she is okay with the changes to the condition language regarding coming back to the commission if there are any changes. Vice Chair Heck asked if Svaccha is non-profit. Ms. Corey explained Svaccha is the entity that won the dispensary certificate and the name on that is Evan Piser. She explained that it is common to have layers of structure and have a managing entity under that. Vice Chair Heck again asked about what happens if the non-profit changes.

Evan Piser, awardee of the medical marijuana license, explained that at the state level an LLC or non-profit can apply for the license. To apply as an LLC, they show in the management services agreement that they operate as a non-profit. He explained that it doesn't have to be a non-profit to apply for the licenses. He further explained that Svaccha is the holding company for the license and then a management company will run the day to day business at the dispensary level.

Vice Chair Heck asked if there will be a board of directors like a non-profit. Mr. Piser explained that an LLC doesn't have to have more than one managing member.

Vice Chair Heck asked City Attorney Stern if he was over complicating the situation asking about non-profit. City Attorney Stern explained the situation that happened in the past and believes if there is a change in ownership the city should be notified as part of the stipulation.

Chair Nesser added that it can be added as part of the stipulation to know who is doing what.

Ms. Corey told the commission that the conditions as written cover the commissions' concerns.

Director Kirch said the wording can be changed to add the names of the managing member, the names of the directors and officers as well as changes in the managing member. He added that changes in the operating company should also be given, though the most important is the name of the managing member.

Vice Chair Heck asked Mr. Piser if he owned Svaccha LLC. Mr. Piser answered that he is the owner of Svaccha but they haven't decided who will be managing the operations of the dispensary.

Director Kirch explained that Mr. Piser is the managing member of the LLC, explaining he doesn't have any other members yet. Additionally there is a management company that will run the day to day operations who hasn't been identified yet. He believes that if a managing partner changes a new CUP needs to be submitted. If there is a change in the management company, the city should be notified.

Commissioner Schroeder asked City Attorney Stern about having an LLC and running a non-profit business. City Attorney Stern said that if you apply with the IRS to become a 501(c)(3), you can. Commissioner Schroeder asked if it was a loop hole. City Attorney Stern explained that the law allows a non-profit to run a dispensary.

Commissioner Howard asked about the handicapped parking spaces and if a fence will be between the two spaces. Ms. Corey answered that it isn't a fence and at this point, there is no

handicap parking on the property at this time. She also explained that the diagram shows the space that will be between the two stalls.

Chair Nesser asked City Attorney Stern that since this is a shared complex if all of the parking are for all of the businesses. City Attorney Stern explained that it is the owner's responsibility to control the parking and asked Senior Planner Esquivias if there are ADA parking spaces in the parking lot. Senior Planner Esquivias replied that he believes there are a couple in front of the bar and that there are none on the east side. Chair Nesser asked Senior Planner Esquivias if there should be ADA parking spaces, to which he said yes.

Commissioner Buzzin asked what the advantages are to having non-profit organization. Ms. Corey explained that with the medical marijuana law that was passed by the voters the law requires it to be non-profit. Commissioner Buzzin asked if it is a real non-profit. Chair Nesser asked City Attorney Stern if the company had to apply with the federal government for the non-profit status. City Attorney Stern replied that they did and explained there is a marijuana tax that they have to pay. Mr. Piser explained they pay city and state tax on the sales like any other business.

Having no further questions from the commission, Chair Nesser opened up the public hearing portion of the item.

Debra Wohle, owner of Lucky Strikes bar and Lucky's Grill, expressed her concerns over the parking situation and feels the parking map provided by the application misrepresents the parking situation at this time. She is also concerned that this business wouldn't be a good fit for her family restaurant and has worked hard to clean up the area.

Dan Coughlin, 434 S. Palo Verde, Apache Junction, expressed his concerns over this application. He feels the additional traffic will be detrimental to his neighborhood and feels this would be a wrong influence for the area.

Daniel Coughlin, 4230 E. University Drive, Mesa, expressed his concerns over the application. He feels that the marijuana sold at the dispensary will get to the kids.

Brenda Gifford, 145 S. Palo Verde Dr., Apache Junction, expressed her concerns of this being next to a neighborhood and feels there are better places for this type of business. Ms. Gifford also brought letters from neighbors that were against the approval of this application.

William Cronin, 253 N. Ocotillo Dr., Apache Junction, spoke in favor of the approval. He is a patient and supporter of the use of medical marijuana. He feels this business can be an asset to the community.

Kimberly Larson, 2674 W. Greasewood St., Apache Junction, spoke in favor of the approval. She feels the perception of these businesses is different from the reality. Nature's Wonder, the other dispensary in the city, is quiet and low key.

Marissa Nims, 9865 E. La Palma Ave., Gold Canyon, feels this will improve the area. She added that having this business can help the community with education and the opioid epidemic.

Liz Defir, 506 S. Palo Verde, Apache Junction, spoke in opposition of the approval. She doesn't want the business on her street.

Having no one else wishing to address the commission, Chair Nesser closed the public hearing portion of the item.

Chair Nesser asked for clarification from staff regarding the parking spaces. Senior Planner

Esquivias answered that the owner of the bar has valid comments regarding the parking spaces. He added the parking plan was designed when there was another restaurant going into the building and the design of the site goes back to before the city was incorporated. The dispensary is less intense with regard to parking requirements than the restaurant for which this parking plan was approved. The current proposed use is less intense than other businesses that could go in there. He agrees the number of spaces is low or at minimum for parking but the parking has worked for the businesses that have occupied the building.

City Attorney Stern added that the city worked with the property owner to retain parking spaces when the city did roadway improvements recently. He also added that because of the curbing the city was able preserve parking spaces. Director Kirch agreed with City Attorney Stern that the way the street was improved it preserved some parking spaces.

Chair Nesser stated if the owner of Lucky Strikes restaurant and bar said there wasn't adequate parking, but feels that this is not the issue if there are enough parking spaces for her business. If this wasn't a medical marijuana dispensary but a Hallmark shop, the city would say there was enough parking. Even if a restaurant wanted to move in, the city is saying there is enough parking. Senior Planner Esquivias agreed. Director Kirch added that there wouldn't be a CUP required and a restaurant could move in tomorrow. He added that there are a lot of permitted uses for that space.

Vice Chair Heck feels that the parking is inadequate for the use that is being requested and requested an explanation of what the city deems as adequate. Director Kirch replied that when the city says that the parking is adequate as it was established through the Board of Adjustment case. In this case adequacy is more of a question if it meets code. The owner knows that this type of parking is meant for small cars and if someone parks over the sidewalk it is a ticketable offense because of the ADA requirement. In this case, Director Kirch added, he believes they meet code for off street parking for what's at the location.

Vice Chair Heck added he isn't opposed to the issue of medical marijuana and aside from the parking issue, is concerned about how the management structure is setup. He believes there is a lot of work that needs to be done and in place so they could make it clear to the commission how the communication line will exist. He believes there are some serious issues with not having management in place and doesn't feel comfortable approving this request.

Chair Nesser asked City Attorney Stern if the commission has any legal concern over the management company not being named. City Attorney Stern replied that there were issues with the other dispensary and cultivation center with owners and management company but feels the current conditions cover any potential problems. He added the item could be continued if the commission would like additional information from the applicant; however, he believes the conditions would cover any type of issue that would come up at this time. Chair Nesser asked the current conditions staff presented, to which City Attorney Stern added the conditions could include operating members under condition #13. City Attorney Stern asked Senior Planner Esquivias if this condition was the same as the other dispensary. Senior Planner Esquivias answered that it was. City Attorney Stern said the commission should keep the conditions comparable. He added he believes the cultivation facility has the same condition to which Senior Planner Esquivias replied yes.

Director Kirch read his amended condition #13 to include the name of the managing members, members, directors and officers. As changes in the members, directors and officers occur, Svaccha shall keep the planning division informed of said changes. If at any time during the operation of this dispensary the managing member of the LLC or a majority of the members, directors, or officers changes, a CUP amendment shall be required. This could be language that can be used.

Vice Chair Heck would like to add that Svaccha is to provide the name and the operating directors of the management company that they contract with to manage the dispensary. He feels the issue is that there is an entity out there that hasn't been established yet and would like to think that would be provided to the city. City Attorney Stern added that the commission should put a deadline on this issue, they should have so much time after the approval of the CUP to provide the information. City Attorney Stern said it should be part of a condition.

Commissioner Schroeder asked City Attorney Stern about grounds for denial of the CUP, that the commission would have to have a legitimate reason on why it's denied. City Attorney Stern answered that the law requires that the commission identify under the elements as outlined on page 167 of the packet, under Section 3, Findings it says the CUP may be granted upon a finding by the commission that the use covered by the permit, the manner of its conduct, and any structures involved will not be detrimental to any persons residing or working in the area to adjacent property to the neighborhood or to the public welfare in general. Commissioner Schroeder asked if the concern over the managing company not being named was a legitimate reason to deny the CUP. City Attorney Stern replied that it isn't one of the items listed. Chair Nesser asked for confirmation to what City Attorney Stern was reading from.

Commissioner Frank asked about the hours of operation and wants to make sure the other dispensary has the same guidelines. Vice Chair Heck said there was no limitation placed on the other dispensary as well. Senior Planner Esquivias confirmed that the other dispensary and cultivation facility don't have limited hours under their conditional use permits.

City Attorney Stern let the commission know about the pages before that are related to approval of the CUP.

Director Kirch gave the commission wording on a condition #13a: Svaccha shall give inform the city or maybe the planning division within 90 days of CUP approval the name of the management company overseeing the day to day operations and its members, director, or officers. Any change in the managing entity or its members, officers or directors shall immediately be provided to the planning division.

Having no further discussion from the commission, Chair Nesser called for a motion.

Vice Chair Heck moved that the Planning and Zoning Commission approve case CUP-5-17, a request for a Conditional Use Permit by Svaccha LLC, represented by Jareb Mackin and Jenifer Corey, to operate a non-profit medical marijuana dispensary at 1985 W. Apache Trail, Suite #4, subject to the conditions of approval listed below as stated in the Planning and Zoning Commission staff report of August 22, 2017 and Conditions 1 through 12 to remain as written, Condition 13 to read as Svaccha LLC shall provide to the city's planning division a copy of their articles of incorporation, including the name of the managing member, members, directors and officers. As changes in the members, directors and officers occur, Svaccha shall keep the planning division informed of said changes. Condition 14 will remain as written. The addition of Condition 15 to read the owner/management company will assure the presence of two disabled/handicap parking spaces located near the entrance. Commissioner Frank seconded the motion. The commission approved the motion with a 6-1 vote.

## **7. Old Business**

None.

## **8. New Business**

None.



**9. Information and Reports**

None.

**10. Director's Report**

None.

**11. Selection of Meeting Dates, Times, Location and Purpose**

**Yes:** 7 - Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Frank, Commissioner Schroeder and Commissioner McGraw

**No:** 0

Vice Chair Heck motioned to hold a Regular Meeting on September 26, 2017 at 7:00 pm in the Apache Junction City Council Chambers located at 300 E. Superstition Boulevard. Commissioner Schreoder seconded the motion.

**12. Adjournment**

Adjournment:

Meeting adjourned at 9:38 p.m.

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Theresa Nesser  
Chairperson